IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 25454 of 2004(E)

PETITIONER:

P.S.ISMAIL, PUTHUPARAMBIL, KOOTTICKAL PO MUNDAKKAYAM, KOTTAYAM DISTRICT.

BY ADV. SRI.K.GEORGE VARGHESE KANNANTHANAM
SRI.TONY GEORGE KANNANTHANAM

RESPONDENTS:
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1. STATE OF KERALA, REP. BY THE SECRETARY TO GOVERNMENT, POWER (C) DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA STATE ELECTRICITY BOARD, REP. BY ITS CHAIRMAN, THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR, COLLECTORATE, KOTTAYAM.

4. THE DEPUTY TAHSILDAR, LAND ACQUISITION, K.S.E.B. CHANTHAKKADAVU, KOTTAYAM.

5. THE EXECUTIVE ENGINEER, TRANSMISSION DIVISION, K.S.E.B. POOVANTHURUTH, KOTTAYAM.

BY ADV. SRI.C.K.KARUNAKARAN SC KSEB
SRI.JOSE J.MATHEIKEL, SC, KSEB
GOVERNMENT PLEADER SHRI BASANT BALAJI R1 & 3
SRI.P.P.THAJUDEEN, SC, K.S.E.B

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C) NO. 25454 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 COPY OF G.O.(RT.) NO.279/2000/PD DATED 31.10.2000 OF THE POWER DEPARTMENT.

EXHIBIT P2 COPY OF REPORT NO.G1-48640/00 DATED 9.7.2003 SUBMITTED BY THE DISTRICT COLLECTOR, KOTTAYAM.

RESPONDENTS' EXHIBITS:

EXHIBIT R5(a) A TRUE COPY OF THE AGREEMENT EXECUTED BY THE PETITIONER BEFORE THE THEN EXE. ENGINEER, TRANSMISSION CONSTRUCTION DIVISION, KOTHAMANGALAM.

EXHIBIT R5(b) A TRUE COPY OF THE BOARD ORDER NO.2353/2000 DATED 22.9.2000.

EXHIBIT R5(c) A TRUE COPY OF THE NOTIFICATION PUBLISHED IN DEEPIKA DAILY DATED 10.7.2001.

K. PADMANABHAN NAIR ,J.

W.P.(C) No.25454 of 2004 E

Dated, this the 12th day of November, 2007

JUDGMENT

Petitioner is the owner of one acre of land comprised in Sy.No.177/5, 177/7 and 178/5 of Block I of Mundakkayam Village, Kanjirappally Taluk in Kottayam District. The grievance of the petitioner is that respondent Electricity Board is trying to take possession of the land belonging to him without acquiring the same. Hence petitioner has filed this Writ Petition to quash Ext.P1 dated 31.10.2000 and also for a direction not to interfere with his title and possession of the land..

2. For and on behalf of fifth respondent a counter affidavit is filed stating that petitioner had executed a consent letter before the then Executive Engineer, Transmission Construction Division, Kothamangalam on 22.5.2000 agreeing to sell the land belonging to him to Kerala State Electricity Board for a consideration of Rs.20,000/- per cent. But subsequently the petitioner had backed out from the agreement. According to the respondents land is needed for construction of 33 KV Sub Station.

3. I have heard both sides. Ext.R5(a) is a copy of the consent letter executed by the petitioner in favour of Executive Engineer, Transmission Construction Division, Kothamangalam. But Ext.P1 shows that thereafter on 31.10.2000 the Government had accorded administrative sanction to acquire the land belonging to the petitioner invoking urgency clause. A conciliation

conference was held. But it did not materialise. The records also show that subsequently respondents 2 and 5 had issued a notification under Section 74 of Electricity Supply Act stating that the officers of the Board, its employees and contractors will enter into the property belonging to the petitioner. There is nothing to show that the Land Acquisition Officer had issued any notification under Section 4(1) read with Section 17(4) of the Land Acquisition Act. So far the land belonging to the petitioner is not acquired or purchased by the Board. So without prejudice to the right of the respondents either to purchase the land or to acquire the same in accordance with law, this Writ Petition is closed.

K. PADMANABHAN NAIR,
JUDGE.

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